

REMARKS/ARGUMENTS

The present amendment, amends claims 1, 5, 7, 9, 17, 18, and 25 and adds claims 27-34. After entry of the present amendment the following claims are pending in this case: 1, 5, 7, 9, 17, 18 and 25-34.

It is noted that it based on the outstanding Office Action mailed October 13, 2004, Examiner Greene has replaced Examiner Le in examining the present case. As is evidenced from the file history in connection with this application, the references cited in the October 13, 2004 have been previously discussed in some detail in earlier Office Actions and Responses. Given the previous history in this case, an attempt will be made to refocus the discussion significant hi-level distinctions between the present pending claims and the cited references.

The October 13, 2004 Office Action rejects all of the previously pending claims based on various combinations of 6 different references. Each of the previously pending independent claims have been amended, and are believed to be clearly distinguished over the references.

The Present Invention:

Much of the discussion in the specification of the present application is directed to providing a unique approach to opening on-line brokerage accounts. In one embodiment which largely parallels the currently pending claims a user inputs user data, and is electronically presented with a non-alterable application which includes the user data. After the user has agreed to the terms of a click through agreement, the user is provided with access to an on-line brokerage account. The brokerage account is subject to restrictions, which are removed only after a successful review of the information input by the user. If the review of the information input by the user is not successful, then the on-line account is closed and the users access to the account is terminated. Indeed, it should be noted that all of the pending claims now provide that the account is initially opened subject to restrictions, and the user is provided access to the restricted account, and then based on a review of the information provided by the user restrictions or removed—no further action is required by the user to remove the restrictions.

The goal of the present invention was to expedite the delivery of services to people wanting to open an on-line brokerage account. This objective is achieved by providing a user with access to brokerage account which is subject to restrictions, which are then removed after

user account information has been successfully reviewed. It is respectfully submitted that none of the reference disclose or suggest such a system or method.

It is noted that the Office Action makes the following statement in part of its analysis in connection with the rejection of the previously pending claims: "The differences between the prior art and the application are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The prohibiting actions associated with an account, and the removing the restrictions after certain actions have been performed steps would be preformed regardless of the type of business being conducted." Office Action, page 3.

It is respectfully submitted, that in fact the claims are very specific, and directed to among other things an operation of obtaining account information, opening an based on the information, providing the user with access to a restricted feature set of the account, while a review of the account information is being conducted; and if the review is successful, removing the restrictions form the account. This general operation which is recited with some variations in the different claims, is fundamental to the operation of an embodiment of the invention, and it is respectfully submitted that as detailed below none of the references, taken alone or in combination disclose, or suggest such an operation.

Comments on the Combination of References:

Collectively the combination of references cited in the Office Action appears to provide no, suggestion that there would be some motivation to combine their teaching. Indeed, none of the references appear to contain any suggestion that it would be advantageous to provide a customer access to an on-line brokerage account, prior to successfully completing a review of the account information provided by a customer, and then removing the restrictions after a successful review of such information. The issues being addressed in each of the references appears to be fundamentally different than the issues and problems being addressed by the present invention.

It is respectfully submitted that the Federal Circuit has repeatedly emphasized the importance of not allowing hindsight to cloud the determination of obviousness. *See, In Re Sang Su Lee*, 277 F.3d 1338, 1344 (Fed. Cir. 2002) ("**Our case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to**

combine prior art references.") *Id.*, quoting *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). It is respectfully submitted that known of the references alone, or in combination suggest that a system should be provided as recited in the claims.

Further, even if one were to try and advantageously combine the elements of the 6 different references cited in the Office Action, it is respectfully submitted that one would not arrive at the systems and methods recited in the pending claims as shown above. Indeed as shown in the discussion of the references below, none of the references appear to even remotely suggest the desirability of expediting the opening of restricted account, and then removing the restrictions following a subsequent review of the account information.

Millard, US Patent Publication 2002/007335 A1

The Millard reference has been described and discussed in some detail in the earlier Office Actions and previous responses. However, it is worth emphasizing that Millard lacks a number of important elements. It is respectfully submitted that Millard does not provide for the fundamental operation of (1) receiving user information for opening an account; (2) in response to the user information, initially opening an on-line brokerage account which is subject to restrictions; (3) removing restrictions from the account after a successful review of the user information.

Millard teaches a system which provides a network where members can exchange financial information and negotiate and settle securities transactions. Millard, Abstract. Millard provides a method where members can provide information as part of a membership sign-up process. Millard, ¶¶137-138. This membership sign-up process, provides for different types of membership such as "Associate" "Qualified" or "Institutional". Millard, ¶143. While different types of memberships will have access to different features of this system, the Millard system does not provide for restricted accounts, where the restriction are **removed following a successful review of the information provided by a user for initially opening an account.** Indeed, it appears that the operation of the Millard is that a user can sign up and then they will have access to the system. This sign up procedure requires providing a certain minimum amount of information, and additionally, the system appears to provide an option where a user can provide credit card information in conjunction with signing up for access to the network. Millard, ¶¶ 137-142.

However, Millard provides no discussion related to having a user supply account information, and then based on this account information opening an on-line brokerage account which is restricted, and then removing the restriction following a successful review of the account information.

Indeed in Millard the user can change membership status, but the user must take some action to change membership level. See e.g. Millard, ¶125.

References Discussing Trial Use of Software:

The Office Action cites three references (U.S. Patent Nos. 5,103,476; 6,021,492; and 6,216,112 B1) as showing systems or methods of providing products /services on a trial-basis for a limited time, and then terminating the trial use if the user has not paid within the limited time period. This operation is fundamentally different in terms of its operation, and objective.

As recited by the present claims, a restricted account is opened for a customer, and the restriction is lifted only after a successful review of account information. Fundamentally the approach of the trial use of software is based, not on expediting the delivery of services, but rather it is for providing a test drive of a product. The trial use appears to ultimately require some type of payment or action by the user to convert the trial use to a non-trial us. In contrast, the present invention requires no further action by the user; rather the restrictions are lifted after a successful review of the account information provided by the user.

Magary, US Patent Publication 2001/0056387 A1

Magary is also cited in the Office Action. Magary discloses a system for providing financial information to clients. The financial information can be information such as transaction data. Magary, Abstract. According to regulatory requirements the client must consent to receiving such financial data electronically. Magary ¶ 18. Magary provides for obtaining and storing these consents. Magary, Abstract. Magary does not, however, provide for, or relate to opening an on-line brokerage account with restrictions, and then removing the restrictions after certain events have occurred. Indeed, it is respectfully, submitted that there is nothing in Magary which would suggest expeditiously providing a customer access to an on-line brokerage account, as a restricted account, and then removing the restrictions, after the information has been successfully reviewed.

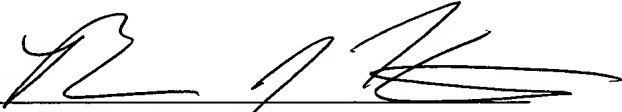
CONCLUSION

For the reasons set forth above, it is believed that all claims now present in this application are patentably distinguishable over the references. Therefore, reconsideration is requested, and it is requested that this application be passed to allowance. If the undersigned can be of any help, please call at 415-772-4904.

Respectfully submitted,

STALLMAN & POLLOCK LLP

Dated: February 2, 2005

By: 
Brian J. Keating
Reg. No. 39,520

Attorneys for Applicant(s)